T.C. Memo. 1954-203

A securities trader, unlike a dealer, does not typically sell to ‘customers’ in the ordinary course of business, and thus their securities are generally considered capital assets eligible for capital gains treatment.

Summary

Lilley & Co., a partnership engaged in buying and selling securities, disputed the Commissioner’s determination that their securities were not capital assets. The Tax Court considered whether Lilley & Co. operated as a “dealer” holding securities primarily for sale to customers, or as a “trader” speculating for their own account. The court held that for securities held longer than six months, Lilley & Co. functioned as a trader, not a dealer, and therefore the gains from their sale were taxable as capital gains. This decision hinged on the firm’s lack of traditional dealer activities and their investment-driven holding strategies.

Facts

- Lilley & Co. engaged in the business of buying and selling securities.
- The firm had two regular places of business and was licensed as a

© 2025 SCOTUSreports.com. All rights reserved.